

### **IC 3-13-11**

#### **Chapter 11. Caucus Procedure for Filling Vacancies in Certain Local Offices Held by Major Parties**

### **IC 3-13-11-1**

#### **Sections requiring following of caucus procedure; appointments pro tempore**

Sec. 1. The caucus procedure prescribed by this chapter for filling vacancies in local offices must be followed whenever required by IC 3-13-6-2, IC 3-13-6-3(a), IC 3-13-7-1, IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1. Selections made under this chapter (or under IC 3-2-9 before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.5; P.L.15-1987, SEC.2; P.L.14-1988, SEC.2; P.L.3-1990, SEC.13; P.L.19-1995, SEC.2.*

### **IC 3-13-11-2 Repealed**

*(Repealed by P.L.3-1987, SEC.570.)*

### **IC 3-13-11-3**

#### **Calling of caucus; withdrawal of resignation; when caucus to be held**

Sec. 3. (a) Except as provided in subsection (b) and section 3.5 of this chapter, not later than ten (10) days after a vacancy occurs in an office subject to this chapter, the county chairman:

- (1) of the county in which the greatest percentage of the population of the election district of the office is located; and
- (2) of the same political party that elected or selected the official who vacated the office;

shall give notice of a caucus to all eligible precinct committeemen.

(b) A county chairman may give notice of a caucus before the time specified under subsection (a) if a vacancy will exist because the official has:

- (1) submitted a written resignation under IC 5-8-3.5; or
- (2) been elected to another office.

(c) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of a caucus under this section.

(d) Except as provided in section 3.5 of this chapter, a caucus under this section shall be held after giving notice to caucus members under section 4 of this chapter and not later than thirty (30) days after the vacancy occurs.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.456; P.L.10-1988, SEC.199; P.L.4-1991, SEC.133; P.L.3-1997, SEC.396; P.L.174-2002, SEC.2.*

### **IC 3-13-11-3.5**

#### **Vacancy on town council; calling caucus; when caucus to be held**

Sec. 3.5. (a) If a vacancy exists on a town council because a circumstance has occurred under IC 36-5-2-6.5(2) through IC 36-5-2-6.5(3), the caucus shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county chairman receives a notice of the vacancy under IC 5-8-5. If the vacancy is due to the death of a town council member and the county chairman is aware of the member's death before receiving a notice of the death, the caucus may meet before the county chairman receives the notice of the death.

(b) The county chairman shall:

- (1) give notice of the caucus meeting to caucus members under section 4 of this chapter; and
- (2) keep the notice of the vacancy with the records of the caucus.

*As added by P.L.174-2002, SEC.3. Amended by P.L.1-2003, SEC.8.*

### **IC 3-13-11-4**

#### **Notice of caucus**

Sec. 4. The notice for a caucus under section 3 of this chapter must:

- (1) be in writing;
- (2) state the name of the chairman of the caucus;
- (3) state the purpose of the caucus;
- (4) state the date, time, and place of the caucus; and
- (5) be sent by first class mail to each member of the caucus at least ten (10) days before the caucus.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.457.*

### **IC 3-13-11-5**

#### **Members of caucus; eligibility**

Sec. 5. (a) To be eligible to be a member of a caucus under this chapter, a precinct committeeman must satisfy the following:

- (1) Be a member of the same political party that elected or selected the person who vacated the office to be filled.
- (2) Be the precinct committeeman of a precinct in which voters were eligible to vote for the person who vacated the office to be filled at the last election conducted or permitted for the office.
- (3) Satisfy the other requirements of this section.

An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the office occurred.

(b) An appointed precinct committeeman is eligible to participate in a caucus called under this chapter if the precinct committeeman was a precinct committeeman thirty (30) days before the vacancy occurred.

(c) If fewer than two (2) persons are eligible to be members of a caucus under this section, the county chairman entitled to give notice of a caucus under section 3 of this chapter shall fill the vacancy, no

later than thirty (30) days after the vacancy occurs. A chairman acting under this subsection is not required to conduct a caucus.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.458; P.L.10-1988, SEC.200; P.L.5-1989, SEC.68; P.L.3-1993, SEC.227; P.L.38-1999, SEC.66; P.L.176-1999, SEC.116; P.L.26-2000, SEC.29.*

### **IC 3-13-11-6**

#### **Chairman of caucus**

Sec. 6. The county chairman:

- (1) of the county in which the greatest percentage of the population of the election district is located; and
- (2) of the same political party that elected or selected the official who vacated the office to be filled;

is the chairman of a caucus held under this chapter. The chairman is not eligible to vote in the caucus unless the chairman is also a member of the caucus.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.459; P.L.10-1988, SEC.201.*

### **IC 3-13-11-7**

#### **Required filings for pro tempore appointment**

Sec. 7. (a) This section does not apply to a vacancy filled by a county chairman under section 5(c) of this chapter.

(b) A person who wishes to be a candidate for pro tempore appointment to fill a vacancy under this chapter must file:

- (1) a declaration of candidacy with the chairman of the caucus; and
- (2) a statement of economic interests with the commission on judicial qualifications if the vacancy is in the office of prosecuting attorney;

at least seventy-two (72) hours before the time fixed for the caucus.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.6; P.L.5-1989, SEC.69; P.L.19-1995, SEC.3; P.L.38-1999, SEC.67.*

### **IC 3-13-11-8**

#### **Caucus rules of procedure; tie vote**

Sec. 8. Except as provided in this chapter, the caucus shall establish the caucus rules of procedure. The chairman shall break any tie vote that occurs in the caucus.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.7; P.L.3-1987, SEC.460.*

### **IC 3-13-11-9**

#### **Voting by proxy**

Sec. 9. (a) Except as provided in this section, voting by proxy is not permitted in a caucus held under this chapter.

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a local office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the vacancy occurred.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.8; P.L.3-1987, SEC.461; P.L.10-1988, SEC.202; P.L.3-1995, SEC.133; P.L.26-2000, SEC.30; P.L.199-2001, SEC.27.*

### **IC 3-13-11-10**

#### **Selection of person to fill vacancy; secret ballot**

Sec. 10. The members of a caucus held under this chapter shall select, by a majority vote of those casting a vote for a candidate, a person to fill the vacancy described in the written notice of the caucus. The selection shall be conducted by secret ballot.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.9; P.L.3-1987, SEC.462.*

### **IC 3-13-11-11**

#### **Certification of pro tempore appointment results; forwarding certificates; filing certificates**

Sec. 11. (a) No later than noon five (5) days after:

(1) the selection required by section 10 of this chapter; or

(2) a selection under section 5(c) of this chapter;

the chairman shall certify the pro tempore appointment results to the circuit court clerk of the county in which the greatest percentage of the population of the election district is located.

(b) This subsection applies to the selection of an individual for an appointment pro tempore as judge of a town court, prosecuting attorney, circuit court clerk, county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor. The clerk shall forward a copy of the certificate to the election division. The election division shall prepare a commission for issuance under IC 4-3-1-5 in the same manner that the election division prepares a commission following the election of an individual to the office.

(c) This subsection applies to the selection of an individual for an

appointment pro tempore to a local office not described in subsection (b). The clerk shall file the certificate in the clerk's office in the same manner as certificates of election are filed. Within twenty-four (24) hours after the certificate is filed, the clerk shall issue a copy of the certificate to the individual named in the certificate.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.10; P.L.10-1988, SEC.203; P.L.5-1989, SEC.70; P.L.38-1999, SEC.68; P.L.26-2000, SEC.31.*

### **IC 3-13-11-12**

#### **Chief deputy employee except for office of judge; assumption of duties during vacancy**

Sec. 12. (a) This section does not apply to the office of a judge.

(b) Subject to sections 13 through 17 of this chapter, the chief deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a circuit, county, city, town, or township office.

*As added by P.L.5-1986, SEC.9. Amended by P.L.14-2004, SEC.172.*

### **IC 3-13-11-13**

#### **Chief deputy employee except for office of judge; appointment if position declined, person ineligible, or position not established**

Sec. 13. (a) This section does not apply to the office of a judge.

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a circuit or county office, or the chief deputy employee declines or is ineligible to serve, the board of county commissioners shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

(c) If a circuit contains more than one (1) county, the boards of county commissioners of the counties shall meet in joint session at the county seat of the county that contains the greatest percentage of population of the circuit to appoint an individual under this section.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1993, SEC.228; P.L.14-2004, SEC.173.*

### **IC 3-13-11-14**

#### **City controller assumes duty of mayor if position of deputy mayor not established in first or second class city**

Sec. 14. In accordance with section 12 of this chapter, if the position of deputy mayor is not established by ordinance in a first class or second class city, the city controller assumes the duties of mayor until the office is filled under this chapter.

*As added by P.L.5-1986, SEC.9.*

### **IC 3-13-11-15**

#### **President pro tempore of common council assumes duty of mayor if position of deputy mayor not established in third class city**

Sec. 15. In accordance with section 12 of this chapter, if the

position of deputy mayor is not established by ordinance in a third class city, the president pro tempore of the common council assumes the duties of mayor until the office is filled under this chapter.

*As added by P.L.5-1986, SEC.9.*

#### **IC 3-13-11-16**

##### **Appointment to office of clerk or clerk-treasurer if chief deputy position not established, person ineligible, or position declined**

Sec. 16. In accordance with section 12 of this chapter, if a chief deputy employee does not exist in the office of clerk or clerk-treasurer of a city or town, or the chief deputy employee declines or is ineligible to serve, the mayor of the city or the president of the town council shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1989, SEC.12; P.L.3-1993, SEC.229; P.L.14-2004, SEC.174.*

#### **IC 3-13-11-17**

##### **Circumstances in which township board chairman assumes duties of township office except for office of judge or township board member**

Sec. 17. (a) This section does not apply to the office of a judge or a township board member.

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a township office or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township office until the office is filled under this chapter.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1987, SEC.5; P.L.3-1993, SEC.230; P.L.14-2004, SEC.175.*

#### **IC 3-13-11-18**

##### **Rights and duties of person assuming duties of vacant office**

Sec. 18. A person who assumes the duties of a vacant office under this chapter has all of the office's rights and duties. Except as provided in IC 3-13-6, the person serves for the remainder of the unexpired term.

*As added by P.L.5-1986, SEC.9. Amended by P.L.38-1999, SEC.69.*

#### **IC 3-13-11-19**

##### **Vacancies; candidates eligible for pro tempore appointment**

Sec. 19. The person who last held a vacated office may not be a candidate for pro tempore appointment to fill a vacancy in that office under this chapter for the remainder of the term.

*As added by P.L.8-1986, SEC.11.*

#### **IC 3-13-11-20**

##### **Vacancies; authority to fill**

Sec. 20. Except as expressly provided in this article, if a person:

(1) is authorized to fill a vacancy in office or to determine which incumbent continues to hold an office under IC 3-13-9-5.6 or IC 3-13-10-6.5; and

(2) fails to fill the vacancy or determine which incumbent continues to hold office before the deadline prescribed by statute;

the person retains the authority to fill the vacancy or to determine which incumbent continues to hold office.

*As added by P.L.3-1997, SEC.397.*

#### **IC 3-13-11-21**

##### **Applicability of provisions concerning temporary filling of vacancy**

Sec. 21. Sections 12 through 20 of this chapter apply to a vacancy in an office to be filled under:

(1) this chapter; or

(2) IC 3-13-6, IC 3-13-7, IC 3-13-8, IC 3-13-9, or IC 3-13-10.

*As added by P.L.3-1997, SEC.398.*